

creditor agency, it shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and 4 CFR 102.13.

(k) *Refunds.* (1) Where the Commission is the creditor agency, it shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(i) The debt is compromised or otherwise found not to be owing to the United States; or

(ii) An administrative or judicial order directs the Commission to make a refund.

(2) Unless required by law or contract, refunds under this paragraph (k) shall not bear interest.

(l) *Request from a creditor agency for the services of a hearing official.* (1) The Commission may provide a hearing official upon request of the creditor agency when the debtor is employed by the Commission and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(2) The Commission may provide a hearing official upon request of a creditor agency when the debtor works for the creditor agency and that agency cannot arrange for a hearing official.

(3) The Director shall arrange for qualified personnel to serve as hearing officials.

(4) Services rendered under this paragraph (l) shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

(m) *Non-waiver of rights by payments.* A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this section shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract except as otherwise provided by law or contract.

(n) *Exception to due process procedures.* The procedures set forth in this section shall not apply to adjustments described in 5 U.S.C. 5514(a)(3).

#### § 201.205 Salary adjustments.

Any negative adjustment to pay arising out of an employee's election of coverage, or a change in coverage, under a Federal benefits program re-

quiring periodic deductions from pay shall not be considered collection of a "debt" for the purposes of this section if the amount to be recovered was accumulated over four pay periods or less. In such cases, the Commission need not comply with § 201.204, but it will provide a clear and concise statement in the employee's earnings statement advising the employee of the previous overpayment at the time the adjustment is made.

#### § 201.206 Administrative offset.

(a) *Collection.* The Director may collect a claim pursuant to 31 U.S.C. 3716 from a person, organization, or entity other than an agency of the United States Government by administrative offset of monies payable by the Government. Collection by administrative offset shall be undertaken where the claim is certain in amount, where offset is feasible and desirable and not otherwise prohibited, where the applicable statute of limitations has not expired, and where the offset is in the best interest of the United States.

(b) *Offset prior to completion of procedures.* Prior to the completion of the procedures described in paragraph (c) of this section, the Commission may effect offset if:

(1) Failure to offset would substantially prejudice the Commission's ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit completion of the procedures described in paragraph (c) of this section. Such prior offsetting shall be followed promptly by the completion of the procedures described in paragraph (c) of this section.

(c) *Debtor's rights.* (1) Unless the procedures described in paragraph (b) of this section are used, prior to collecting any claim by administrative offset or referring such claim to another agency for collection through administrative offset, the Director shall provide the debtor with the following:

(i) Written notification of the nature and amount of the claim, the intention of the Director to collect the claim through administrative offset, and a statement of the rights of the debtor under this paragraph;